

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JACK GUTTMAN, INC.,	)	
	)	
Plaintiff,	)	Case No.: C-1-01-800
	)	Judge: Susan J. Dlott
v.	)	
	)	
KOPYKAKE ENTERPRISES, INC.,	)	
	)	
Defendant.	)	

**JACK GUTTMAN, INC.'S, REPLY TO COUNTERCLAIM**

Plaintiff Jack Guttman, Inc., dba Bakery Crafts ("Bakery Crafts"), by and through its attorneys, replies to the numbered paragraphs of the counterclaims in Defendant's, KopyKake Enterprises, Inc.'s ("KopyKake"), Answer and Counterclaims to First Amended Complaint ("Counterclaims") as follows:

1. In response to paragraph 23 of the Counterclaims, Bakery Crafts admits that KopyKake seeks a declaration of invalidity, unenforceability, and non-infringement of U.S. Patent Nos. 6,319,530 ("the '530 patent") and 6,582,742B2 ("the '742 patent"), but denies that KopyKake has any such claims or that any such claims are justified.

2. Bakery Crafts admits on information and belief the allegations of paragraph 24 of the Counterclaims.

3. Bakery Crafts admits the allegations of paragraph 25 of the Counterclaims.

4. In response to paragraph 26 of the Counterclaims, Bakery Crafts admits that this Court has jurisdiction over the Counterclaims.

5. In response to paragraph 27 of the Counterclaims, Bakery Crafts admits that venue is proper in this judicial district.

6. Bakery Crafts is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28 of the Counterclaims and, therefore, denies same.

7. Bakery Crafts admits on information and belief the allegations of paragraph 29 of the Counterclaims, but denies that KopyKake's products are limited to those described in paragraph of 29 of the Counterclaims.

8. Bakery Crafts is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30 of the Counterclaims and, therefore, denies same.

9. Bakery Crafts admits on information and belief that at least some of the products of KopyKake travel in interstate commerce.

**First Counterclaim (Declaratory Judgment for Non-infringement,  
Invalidity and Unenforceability of the '530 patent)**

10. In response to paragraph 32 of the Counterclaims, Bakery Crafts incorporates its answers to paragraphs 26-31 as though fully set forth herein. To the extent there are any allegations in paragraphs 1-25 of Defendant's Answer and Counterclaims to First Amended Complaint to which paragraph 32 of the Counterclaims requires a response, Bakery Crafts denies same.

11. Bakery Crafts admits the allegations of paragraph 33 of the Counterclaims.

12. Bakery Crafts admits that paragraph 34 of the Counterclaims purports to state a cause of action under 28 U.S.C. §§ 2201 *et seq.*, but denies that KopyKake has any such cause of action or that any such cause of action is justified.

13. In response to paragraph 35 of the Counterclaims, Bakery Crafts admits that KopyKake makes the contentions set forth in paragraph 35, but denies the contentions set forth therein.

14. In response to paragraph 36 of the Counterclaims, Bakery Crafts admits that KopyKake makes the contentions set forth in paragraph 36, but denies the contentions set forth therein.

15. In response to paragraph 37 of the Counterclaims, Bakery Crafts admits that KopyKake seeks a declaration that the '530 patent is invalid, void, unenforceable and not infringed, but denies that KopyKake is entitled to such a declaration.

**Second Counterclaim (Declaratory Judgment for Non-infringement,  
Invalidity and Unforceability of the '742 patent)**

16. In response to paragraph 38 of the Counterclaims, Bakery Crafts incorporates its answers to paragraphs 26-37 as though fully set forth herein. To the extent there are any allegations in paragraphs 1-25 of Defendant's Answer and Counterclaims to First Amended Complaint to which paragraph 38 of the Counterclaims requires a response, Bakery Crafts denies same.

17. Bakery Crafts admits the allegations of paragraph 39 of the Counterclaims.

18. In response to paragraph 40 of the Counterclaims, Bakery Crafts admits that KopyKake purports to state a cause of action under 28 U.S.C. §§ 2201 *et seq.*, but denies that KopyKake has any such cause of action or that any such cause of action is justified.

19. In response to paragraph 41 of the Counterclaims, Bakery Crafts admits that KopyKake makes the contentions set forth in paragraph 41, but denies the contentions set forth therein.

20. In response to paragraph 42 of the Counterclaims, Bakery Crafts admits that KopyKake makes the contentions set forth in paragraph 42, but denies the contentions set forth therein.

21. In response to paragraph 43 of the Counterclaims, Bakery Crafts admits that KopyKake seeks a declaration that the '742 patent is invalid, void, unenforceable and not infringed, but denies that KopyKake is entitled to such a declaration.

WHEREFORE, Jack Guttman, Inc., dba Bakery Crafts, demands that the Counterclaims of the defendant KopyKake Enterprises, Inc. be dismissed with prejudice and that Jack Guttman, Inc., dba Bakery Crafts, be awarded the relief as prayed in its First Amended Complaint herein.

Dated: December 8, 2003

/s/Theodore R. Remaklus

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 8, 2003, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Todd H. Bailey; and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

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